SAMPLE REQUEST LETTER

Date

Freedom of Information Unit
(Name and Address of Government Agency)

Dear Sir or Madam:

Re: Freedom of Information Request

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and/or the Privacy Act, 5 U.S.C. § 552a, I hereby request access to (or a copy of) all records pertaining to (describe the subject or document containing the information you want). I am requesting these records (as a representative of the news media, for non-commercial personal use, for an educational institution, etc.).

Agency Reading Room has a list of information and “all records pertaining to me” and include your full name, address, date and place of birth, and social security number. To verify that you are requesting your own records, you may have your signature notarized by a notary public or add to the letter the following sentence: “I hereby request access to all records that pertain to the individual described in the information staff for their assistance, especially if you are not in the possession or control of the agency, if you do not have access to its Reading Room materials. The request for information shall be accompanied by a “handbook” that describes how to file a FOIA request for its records and describes the types of records the agency holds. You may request a copy of the handbook at the agency’s Internet site. The Code of Federal Regulations contains FOIA procedures for each agency. Some agencies accept FOIA requests by telephone or electronic mail. All agencies accept requests by mail. In your request letter, you must specify what you want and the reason for your request: ‘reasonably describe’ the records you seek. This means that you may not simply ask questions but must request records describing or pertaining to a particular subject. You do not need to specify a document by name or title, but you must provide a reasonable enough description to enable the agency to identify the records you seek. For example, if you ask information on nursing home surveys but do not mention that the government requires some sort of annual surveys to be conducted on nursing homes, it is sufficient to request access to all records pertaining to the information.

How to Make a Request

(1) The first step is to determine which agency has the records you want. There is no central government FOIA office, and each agency has its own office or public information staff. There is no special way of requesting records from an agency other than common sense and contacting various agencies. If you have trouble determining which federal agencies may have the information you seek, you may consult the United States Government Manual, which is available in most public libraries and on-line through the Internet. The Government Manual contains a list of federal agencies and a brief description of their functions. The Manual also contains the addresses and telephone numbers for each agency.

(2) The next step is to determine whether a FOIA request is necessary. In 1996, Congress amended the FOIA to make it possible to obtain information that is frequently requested by the public, without a FOIA request. Agencies must make these materials, and indexes for finding them, available in their Reading Rooms. The FOIA further requires agencies to make their Reading Room materials available on-line, or on CD-ROM or disk, on request, if they are not available in the Reading Room.

The Agency Response

Under the FOIA, an agency may deny your request if you have failed to reasonably describe the documents, if the agency has conducted a reasonable search and has determined that the requested documents do not exist or are not in the possession or control of the agency, if you are not willing to pay the anticipated costs of responding to your request, or if the documents are specifically exempted from disclosure by one of the Act’s nine exemptions (see below). If the agency claims you have inadequately described the records you seek, you should request the agency to provide you more precisely and resubmit it and/or contact the official processing your request to describe what you seek.

The law sets specific deadlines for replying to FOIA requests: 20 working days on the initial request, and 20 working days on any agency appeal. The FOIA also requires agencies to expedite requests that are particularly time-sensitive. If there is a threat to an individual’s life or physical safety, or if the information demonstrates an urgent need to inform the public.

The need for the rules, delay is common. Even though the law says that an agency may receive a time extension only in unusual or exceptional circumstances, agencies regularly exceed the twenty working-day deadline without notifying the requester. At some agencies, the delays may last many months or even years.

In an effort to speed up the process, Congress amended the FOIA in 1996 to encourage agencies to set up a “Freedom of Information Act” system that seeks for small amounts of material can be responded to more quickly.

Check agency regulations to see if your request can qualify for a fee reduction. Educational or noncommercial scientific request for expedited processing. In your request letter, include any information supporting your request for expedited processing. If you are seeking expedited processing, you must provide the information in a statement certified to be true to the best of your knowledge and belief. You can do this by including the following sentence in your letter: ‘I certify that the statements contained in this letter are true and correct to the best of my knowledge and belief.’

Regardless of the above categories, you may be entitled to a waiver or reduction of fees if, according to the agency, “the requested records are not primarily commercial, and disclosure of the information will contribute significantly to public understanding of the operations or activities of the government.” Fee waivers are discretionary; the FOIA does not require agencies to grant them. To request a fee waiver or reduction, you should explain why you are seeking access to the information and how your access to it will further your interest of the requester.” In requesting a fee waiver, you should explain why you are seeking the information, and how that information will contribute to public understanding or awareness of government activities.

The Nine Exemptions

An agency may withhold some or all of the records that it seeks if they fall within one or more of the nine exemptions established by the Act. These exemptions protect the privacy of certain individuals, as well as the need for the full, fair, and free discussion of public issues by limiting the ability of outsiders to impose on the agency’s decision to withhold the records by appealing any denial. In some cases, you may also ask the agency to use its discretion to release records even if the records are covered by an exemption.

The Freedom of Information Act (5 U.S.C. § 552) and, if you are requesting records about yourself, pursuant to the Privacy Act (5 U.S.C. § 552a) as well. For requests to the FBI, send your letter to the FBI Field Office which you believe has your records. For all requests, you should write “Freedom of Information Act/Privacy Act” in the upper left-hand corner of the letter, and on the letter, and you should retain a copy for your files. You do not have to explain the reasons for your request, or if the documents are generally not available, or if you do not have any right to ask unless you are seeking a waiver of fees. If you are not willing to pay the anticipated costs of responding to your request, or if the documents are specifically exempted from disclosure by one of the Act’s nine exemptions (see above). If the agency claims you have inadequately described the records you seek, you should ask the agency to provide you more precisely and resubmit it and/or contact the official processing your request to describe what you seek.

The nine exemptions are:

1. Information that is actively delisted from public dissemination.
2. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
3. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
4. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
5. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
6. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
7. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
8. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
9. Information that is protected by law, even if not otherwise broadly exempted from disclosure.
(1) National Security

The documents exempt under this section are those that are properly classified pursuant to a Presidential Executive Order. If you are requesting a document that the agency tells you is classified, you may want to ask that the reasons for classification be re-examined, as the agency may determine that there is no longer a need for secrecy, at least as to some parts of the records in question.

(2) Internal Agency Rules

This exemption protects rules and practices of agencies personnel that are “predominantly internal” in nature and whose disclosure serves no substantial public interest and significantly circumvents agency regulations or statutes. Thus, minor employee matters such as employee parking and cafeteria regulations are exempt.

(3) Information Exempted by Another Federal Statute

This exemption honors mandatory nondisclosure provisions in other laws.

(4) Trade Secrets

Agencies withhold trade secrets and confidential commercial or financial information. This exemption is likely to be invoked for exempt portions; (2) indicate where the withheld portions appear on the records; and (3) if the records are withheld in their entirety, provide a reasonable estimate of the portion of information that is being withheld, unless giving an estimate would harm an interest protected by the exemption invoked. Trade secrets are protected from disclosure. Commercial or financial information may be withheld if it is not customarily disclosed to the public by the company, if its disclosure would be likely either to impair the agency’s ability to obtain information in the future or if disclosure of the information would cause a competitive disadvantage to the business that submitted it to the government. Confidential or financial information that companies give the government voluntarily ordinarily receives more protection that information that businesses are required to submit.

(5) Internal Agency Memoranda

This exemption protects information about an agency’s decision-making process. This advice and recommendations involving a “deliberative process” on legal and policy matters may be withheld, but the segregable, factual portions of the record should be disclosed. Preliminary drafts and unrefined drafts may be withheld, but final decisions and the memos on which they are based must generally be disclosed. Thus, a memo from a staff person to a supervisor recommending that a particular policy be established would be exempt from disclosure. But the factual portions of this memo would not be exempt unless they reveal the deliberative decision-making process of the agency.

(6) Personal Privacy

This exemption involves a balancing of the public’s interest in disclosure against the degree of invasion of personal privacy that would result from disclosure. Your request involves this exemption, you should provide a brief explanation of the public benefits from disclosure, particularly how disclosure sheds light on government activities generally better to send a letter demanding a prompt response before going to court; if the request has been denied in part or in full, then you must appeal before a lawsuit can be filed. A lawsuit may take a year or more, so coercing the information out of the agency is preferable to going to court. Following up written requests with phone calls can speed up your request. If agencies are aware that you know your rights, they will sometimes move more quickly. For your files, keep a written record of all contact with the agency regarding your request.

(7) Investigatory Records

This exemption protects information compiled for law enforcement purposes that could reasonably be expected to interfere with enforcement proceedings, to identify a confidential source, to disclose techniques and procedures for law enforcement investigations, or to invade personal privacy.

(8) & (9) Other Exemptions

These are two special-interest exemptions relating to the need for secrecy, to invade personal privacy, and they are not relevant to most FOIA requests.

Note: If an agency withholds records based on one of these exemptions, it must (1) release portions of the records that are not exempt and that can be separated; (2) indicate where the withheld portions appear on the records; and (3) if the records are withheld in their entirety, provide a reasonable estimate of the portion of information that is being withheld, unless giving an estimate would harm an interest protected by the exemption invoked. Trade secrets are protected from disclosure. Commercial or financial information may be withheld if it is not customarily disclosed to the public by the company, if its disclosure would be likely either to impair the agency’s ability to obtain information in the future or if disclosure of the information would cause a competitive disadvantage to the business that submitted it to the government. Confidential or financial information that companies give the government voluntarily ordinarily receives more protection than information that businesses are required to submit.

(10) The Privacy Act

The Privacy Act is an amendment to the Freedom of Information Act designed to make litigation as simple as possible. In some instances, taking a FOIA case to court is more time consuming and costly than to do it themselves without a lawyer. However, it is more helpful to have a lawyer if you litigate in court. After you appeal is denied, or after 20 working days have elapsed from the time the agency received your appeal, you may sue in the United States District Court where you live, where the documents are, or in the District of Columbia. If the government cannot prove that the requested documents fall within one of nine exemptions, the government will have to give the documents to you. Even if you lose the agency may release documents along the way. If you win, the Court may require the government to pay any attorney’s fees that you incurred.

THE PRIVACY ACT

In 1974 Congress enacted the federal Privacy Act, 5 U.S.C. § 552a, which, on the one hand, requires the government to protect personal information from misuse and unauthorized disclosure, and, on the other hand, establishes a right for individuals to examine their own files and to seek correction of those files. The limitations on the right of access under the Privacy Act are fewer than those in the FOIA. However, law enforcement agencies and the CIA are completely exempt from the Privacy Act. Under certain circumstances, an agency may state that it does not have any records, or that it has no records subject to a FOIA request, and only U.S. citizens or permanent resident aliens may obtain access to records. Requests for your own file should invoke the Privacy Act, since the FOIA is designed to be used only to access records that are not subject to the FOIA. The Privacy Act is designed to be used only to access records that are not subject to the FOIA.